

REMARKS/ARGUMENTS

This is a full and timely response to the outstanding non-final Office Action mailed February 16, 2005. Applicant hereby confirms the election made by the undersigned via telephone of claims 25-30, and claims 1-24 are correspondingly canceled. Applicant, however, reserves the right to pursue these claims in continuing and/or divisional application.

Upon entry of the amendments in this response, claims 25-45 remain pending (claims 31-45 being newly added). Reconsideration of the rejections and allowance of all pending claims of the application are respectfully requested.

In this response, the substance of dependent claim 26 has been incorporated into independent claim 25, which now recites the feature of “at least two of said contact openings extending down to and over an edge of said patterned conducting layer within said opening areas are etched over said edge of said patterned conductive layer in said opening areas on opposite sides of said open areas to allow for more relaxed alignment tolerances.” Support for this amendment can be found in at least Figs. 6-7, 8a-8b, and 9-10, and the related description thereof in the specification.

In addition, new claims 31-45 are added in this response. Support of new claims 31-45 can be found in at least pages 17-22 of the specification and in at least Figs. 5-7, 8a-8b, and 9-10 of the drawings. Therefore, the addition of these claims adds no new matter to this application.

Rejections under 35 U.S.C. 103

The Office Action rejected claim 25 as allegedly anticipated by U.S. Patent 6,083,825 to Lin et al. Further, the Office Action rejected claims 26-27 and 29 under 35 U.S.C. 103(a) as allegedly unpatentable over U.S. 6,083,825 of Lin et al. in view of U.S. patent application

publication 2002/0079581 of Graettinger et al. As claim 25 has been amended to incorporate the substance of previous claim 26, the anticipation rejection of claim 25 is rendered moot, and the following remarks (with respect to claim 25) will address the 103 rejection asserted against previous claim 26.

Applicants respectfully submits that combination of Lin et al. in view of Graettinger et al. fails to recite at least the claimed features of “the at least two of said contact openings..... on opposite sides of said opening areas” and “forming low-resistance contacts to said edge of the patterned conductive layer” of claim 25 of the present application.

As shown in Fig. 19A of U.S. patent application publication 2002/0079581, Graettinger et al. discloses that each plug 2850 includes a non-conductive spacer 2400 to prevent the contact with polysilicon electrode layer 1622 and metal strap 1624. This, however, does not disclose the above-recited claimed features. Indeed, in this respect, Graettinger et al. teach away the feature “forming low-resistance contacts to said edge of the patterned conductive layer,” as now embodied in claim 25. For at least this reason, claim 25 should be allowed.

In addition, as shown in Figs. 18B and 19B of U.S. patent application publication 2002/0079581, Graettinger et al. also fail to disclose the recited feature of “the at least two of said contact openings..... on opposite sides of said opening areas” of claim 25 of the present application.

Therefore, it simply not reasonable (and certainly not obvious) for persons skilled in the art to combine Lin et al. in view of Graettinger et al., as alleged by the Office Action. Consequently, and for at least these reasons, amended claim 25 (incorporating the substance of previous claim 26) should be allowed. In particular, Applicant respectfully asserts that the cited art, neither individually nor in combination, teaches or reasonably suggests at least the

features/limitations in the amended claim 25, respectively. Therefore, Applicant respectfully submits that claim 25 cannot be properly rejected under 35 U.S.C. 103 with respect to the cited references. Since claims 27-30 incorporate the limitations of claim 25, Applicant respectfully asserts that these claims also are in condition for allowance. Additionally, these claims recite other features that can serve as an independent basis for patentability.

Applicant also respectfully traverses the alleged motivation for combining the two references. In this regard, the Office Action stated only that the combination would have been obvious “in order to increase the surface area between electrodes and the dielectric as compared to a flat plate capacitor.” Such a rationale is clearly improper, in view of the well-established case law from the Federal Circuit, which requires that any such (proper) motivation be found and identifiable from the prior art itself. Merely citing a utilitarian result of the combination is insufficient to meet the relevant legal standards. However, in view of the comments above, the Applicants submits that the rejection is moot, and therefore need not further expand on the inapplicability and deficiency of the alleged motivation to combine.

Newly Added Claims

Applicant has closely reviewed the art cited by the Office Action, and has drafted newly-added claims 31-45 to patently define over these references.

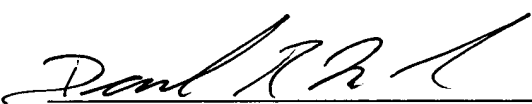
CONCLUSION

In view of the foregoing, Applicant submits that all pending claims are in proper condition for allowance. If the Examiner believes that a telephone conference would expedite

the examination of the above-identified patent application, the Examiner is invited to call the undersigned.

No fee is believed to be due in connection with this amendment and response to Office Action. If, however, any fee is believed to be due, you are hereby authorized to charge any such fee to deposit account No. 20-0778.

Respectfully submitted,

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